

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1803 of 2016
IN
Miscellaneous Jurisdiction Case No. 2216 of 2016**

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The State of Bihar through Mr. Sanjay Kumar Agrawal son of Sri R.G. Agrawal,
the District Magistrate, Patna.

.... Appellant

Versus

Ratan Prakash Singh son of Late Shridhar Prasad Singh resident of village -
Ghoswari, Police Station - Bakhtiyarpur, District - Patna.

.... Respondent

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Appearance :

For the Appellant : Mr. Manoj Kumar, AC to GA 7
For the Respondent : Mr. P.K. Shahi, Sr. Advocate
Mr. Vipin Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 29-11-2016

Heard learned counsel for the appellant and learned
senior counsel for the respondent.

2. The present Letters Patent Appeal is directed against
an order passed by the learned Single Judge on 4th of July, 2016 in
MJC No. 2216 of 2016 whereby the District Magistrate was directed
to recommend to put the Circle Officer under suspension and the
Competent Authority of the Revenue and Land Reforms to ensure
completion of the departmental proceeding against him within three
months.

3. Learned counsel for the appellant contends that the



writ application filed by the writ applicant- respondent was decided on 25th of May, 2016 in CWJC No. 6374 of 2016 when the following orders were passed:-

“Heard learned counsel for the petitioner and respondents.

Writ Application is disposed of with a direction upon the Circle Officer, Bakhtiyarpur, that on an application being filed in relation to notice contained in Annexure-1 dated 26.02.2016 with supporting material, the veracity of the plea taken therein will be examined and a fresh order will be passed in the matter.

Petitioner must file his response to Annexure-1 within one week from today.

An early decision will be taken on the issue by the Circle Officer, Bakhtiyarpur, before taking any coercive action for dispossession”.

4. It was on 27th of June, 2016, the District Magistrate, Patna was directed to file an affidavit after verifying the facts on record in a contempt petition filed by the writ applicant. It is in terms of the said order, the District Magistrate has passed an order on 29th of June, 2016 finding allegations against the Circle Officer as well as other officers of the dereliction in duty and recommended strong disciplinary proceedings. It is thereafter, the impugned order has been passed by the learned Single Bench.

5. The argument on behalf of the appellant is that the



learned Single Bench could not issue further independent directions than what was ordered at one stage by the learned Single Bench on 25th of May, 2016. It is further contended that as to whether any disciplinary action should be taken against the person found responsible for dereliction of duty is a matter which should be left at the discretion of the State Government.

6. Learned counsel for the appellant refers to the judgment of the Supreme Court in Supreme Court Bar Association Vs. Union of India and Anr. [(1998) 4 Supreme Court Cases 409] to contend that there could not be any direction for recommending the Circle Officer under suspension and to ensure completion of the departmental proceedings as this Court in contempt proceeding is not competent to pass such an order. Such power is vested with the Supreme Court in exercise of the power conferred under Article 129 read with Article 142 of the Constitution of India.

7. Mr. P.K. Shahi, learned Senior counsel for the respondent, points out that the appellant was found responsible of giving a false report by virtue of which, the writ applicant was not shown as the owner of the land and on the basis of wrong reports, his land was allotted to the settlees as public land.

8. The judgment reported as Supreme Court Bar Association's case (supra) has no applicable to the facts of the present



case, where the Court held as under:-

“37. The nature and types of punishment which a court of record can impose in a case of established contempt under the common law have now been specifically incorporated in the Contempt of Courts Act, 1971 insofar as the High Courts are concerned and therefore to the extent the Contempt of Courts Act, 1971 identifies the nature or types of punishments which can be awarded in the case of established contempt, it does not impinge upon the inherent powers of the High Court under Article 215 either. No new type of punishment can be created or assumed.”

9. This Court has not passed any order of punishment but recorded the stand of the District Magistrate. The question as to whether the appellant has defaulted in performance of his official duty or not is yet required to be found administratively in the disciplinary proceedings. Such disciplinary proceedings are required to be conducted in fair and transparent manner.

10. Therefore, we dispose of the present Letters Patent Appeal with liberty to the State Government or the Competent Punishing Authority to conclude the disciplinary proceedings in accordance with law without being uninfluenced by any of the observations made by the Court at one stage or in the contempt proceeding.



11. With the said observations, the present Letters Patent
Appeal is disposed of.

(Hemant Gupta, J)

B.T/-

(Vikash Jain, J)

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